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6 NEVADA HEALTH CENTERS, INC.

7  
8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA  
10

11 GARY AYERS,

12 Plaintiff,

13 vs.

14 NEVADA HEALTH CENTERS, INC.;  
15 DOES I through V, inclusive; and ROE  
corporations I through V, inclusive,

16 Defendant.  
17

Case No. 2:15-cv-00871-APG-CWH

**JOINT STIPULATION AND ORDER FOR  
TEMPORARY STAY OF PROCEEDINGS**

**[FIRST REQUEST]**

**ORDER**

18 Plaintiff GARY AYERS ("Plaintiff") and Defendant NEVADA HEALTH CENTERS, INC.  
19 ("Defendant"), by and through their respective counsel of record, hereby stipulate to and request that  
20 the Court grant a temporary stay of all proceedings in this matter for a period of sixty (60) days  
21 pending Plaintiff's request and receipt of a right to sue letter in a related charge he has filed before  
22 the Equal Employment Opportunity Commission ("EEOC").

23 **I. Procedural Background**

24 On March 24, 2015, Plaintiff filed the instant matter against Defendant, his former employer,  
25 in Nevada State Court alleging violations of the Fair Labor Standards Act (FLSA) and the Nevada  
26 Revised Statutes (NRS). **Complaint [ECF 1-1]**. Specifically, Plaintiff pled three causes of action:  
27 (1) violation of the FLSA wage and overtime provision; (2) violation of the NRS wage and overtime  
28 provision; and (3) retaliation under the FLSA. **Id.**

On May 8, 2015, Defendant removed this matter to the United States District Court for the District of Nevada. **Petition for Removal [ECF 1]**. Thereafter, Defendant filed a Motion to Dismiss asserting that there is no private right of action as to Plaintiff's second cause of action under the Nevada Revised Statutes. **Motion to Dismiss [ECF 11]**. Plaintiff's response is currently due May 28, 2015. **Id.**

On May 18, 2015, the parties held their mandatory Rule 26(f) conference. During that conference Plaintiff's counsel notified Defendant's counsel that Plaintiff had filed a separate charge against Defendant with the Equal Employment Opportunity Commission (EEOC) alleging discrimination and retaliation in violation of Title VII. **See Plaintiff's EEOC Charge filed May 18, 2015, attached hereto as Exhibit 1.** The parties agreed that because Plaintiff's EEOC charge and the instant matter pertain to Plaintiff's termination of employment, the two matters are sufficiently related. *See Fed.R.Civ.P. 42(a)* (If actions before the court involve a common question of law or fact the court may consolidate the actions). Therefore, in an effort to allow the allegations to proceed as one matter, Plaintiff's counsel has requested a right to sue from the EEOC via fax. **Declaration of Christian Gabroy, attached hereto as Exhibit 2.**

Upon receipt of the right to sue, Plaintiff will then move to amend the Complaint to assert such Title VII/retaliation claims. **Id.** Defendant has agreed to not oppose such motion and will stipulate to the filing of the Amended Complaint. The parties further agree that once the Amended Complaint is filed, a standard 180-day discovery period will be appropriate.

Moreover, both parties would be better equipped to discuss settlement and other cost-efficient resolutions to this dispute.

## **II. Request for Stay**

As discussed above, Plaintiff filed a charge of discrimination with the EEOC on May 18, 2015. **Plaintiff's EEOC Charge, attached hereto as Exhibit 1.** That charge, like the instant matter, pertains to the termination of Plaintiff's employment. **Id.** Accordingly, it has a common question of fact with the instant matter and consolidation is appropriate. *See Fed.R.Civ.P. 42(a)*. However, because Plaintiff only filed his charge on May 18, 2015, he has not obtained a right to sue letter. **Gabroy Decl. (Ex. 2).** Nonetheless, in an effort to facilitate the proposed Amended

1 Complaint, Plaintiff's counsel has sought an expedited right to sue letter for the EEOC charge.  
 2 **Gabroy Decl. (Ex. 2).** Plaintiff's counsel will notify Defendant's counsel and the Court  
 3 immediately upon receipt of that letter and will then move to Amend the Complaint, which  
 4 Defendant will not oppose. **Gabroy Decl. (Ex. 2).** Additionally, Plaintiff's counsel believes he will  
 5 be able to obtain the right to sue letter within 30 days of filing this stipulation. **Gabroy Decl. (Ex.**  
 6 **2).** Once Plaintiff obtains his right to sue letter, he will seek to amend the Complaint to assert the  
 7 claims contained in the s EEOC charge. **Gabroy Decl. (Ex. 2).**

8 In light of the time it will take to obtain a right to sue letter, the parties request a temporary  
 9 stay in this matter. The parties believe the stay will avoid unnecessarily incurring the significant  
 10 costs and fees associated with pursuing two related matters separately in this Court, including but not  
 11 limited to, costs and fees associated with completion of discovery, completion of a significant  
 12 number of depositions, and expert discovery, prior to Plaintiff pleading all of his alleged claims. As  
 13 a result, the requested stay will further the interests of Federal Rule of Civil Procedure 1 that the  
 14 rules be administered to promote the inexpensive determination of every action. The parties request:

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- The Court enter a temporary stay in this matter through July 21, 2015, or until Plaintiff's Amended Complaint is filed, whichever is earlier.
- The Court oOrder that the parties submit a proposed discovery plan and scheduling order within one week of the Court lifting the stay.

Dated: May 27, 2015

**IT IS SO STIPULATED.**

Respectfully submitted,

Respectfully submitted,

/s/ Christian Gabroy, Esq.  
CHRISTIAN GABROY, ESQ.  
IVY HENSEL, ESQ.  
GABROY LAW OFFICES

Attorneys for Plaintiff  
GARY AYERS

/s/ Kathryn B. Blakey, Esq.  
BRUCE C. YOUNG, ESQ.  
KATHRYN B. BLAKEY, ESQ.  
LITTLER MENDELSON, P.C.

Attorneys for Defendant  
NEVADA HEALTH CENTERS, INC.

**ORDER**

**IT IS SO ORDERED.**

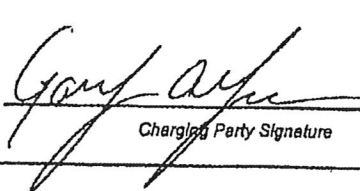
Dated: June 2, 2015.

  
UNITED STATES DISTRICT JUDGE

# EXHIBIT 1

EXHIBIT 1

EEOC Form 5 (11/09)

<b>CHARGE OF DISCRIMINATION</b> <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: <span style="float: right;">Agency(ies) Charge No(s):</span> <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC <span style="float: right;"><b>487-2015-00707</b></span>	
<b>Nevada Equal Rights Commission</b> and EEOC <small>State or local Agency, if any</small>			
Name (Indicate Mr., Ms., Mrs.) <b>Mr. Gary L. Ayers</b>		Home Phone (Incl. Area Code) <b>(702) 575-7626</b>	Date of Birth <b>07-08-1979</b>
Street Address <span style="float: right;">City, State and ZIP Code</span> <b>10409 Chandra Ave., Las Vegas, NV 89129</b>			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name <b>NEVADA HEALTH CENTERS</b>		No. Employees, Members <b>500 or More</b>	Phone No. (Include Area Code) <b>(702) 307-5414</b>
Street Address <span style="float: right;">City, State and ZIP Code</span> <b>1799 Mt. Mariah Dr., Las Vegas, NV 89105</b>			
Name  		No. Employees, Members  	Phone No. (Include Area Code)  
Street Address <span style="float: right;">City, State and ZIP Code</span>  			
DISCRIMINATION BASED ON (Check appropriate box(es).) <input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)		DATE(S) DISCRIMINATION TOOK PLACE Earliest <span style="float: right;">Latest</span> <span style="float: right;"><b>02-18-2015</b></span> <input type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)). <b>On or about June 1, 2010, I was hired by the Respondent as a Truck Driver. My last job title was Truck Driver.</b>  <b>On or about October 28, 2014, I was racially harassed by Manager, Colleen Petrosky. For example, but not limited to, Ms. Petrosky making a racially offensive comment and giving my work days to another white coworker. I informed Respondent of the hostile work environment; however, no action was taken to investigate or to promptly correct. On or about February 18, 2015, I was discharged.</b>  <b>I believe I was discriminated against because of my race, African American, and in retaliation for engaging in a protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended.</b>			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. I declare under penalty of perjury that the above is true and correct.		NOTARY - When necessary for State and Local Agency Requirements  I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT  SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
May 18, 2015 <span style="float: right;"></span> Date <span style="float: right;">Charging Party Signature</span>		<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <b>RECEIVED</b>  <b>MAY 18 2015</b>  <b>LAS VEGAS LOCAL OFFICE</b> </div>	

# EXHIBIT 2

# EXHIBIT 2

GABROY LAW OFFICES  
Christian Gabroy (#8805)  
Ivy Hensel (#13502)  
The District at Green Valley Ranch  
170 South Green Valley Parkway, Suite 280  
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CHRISTIAN@GABROY.COM

*ATTORNEYS FOR PLAINTIFF*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

Gary Ayers, an individual,

Plaintiff,

vs.

Nevada Health Centers, Inc.; DOES I  
through X; and ROE Corporations XI  
through XX, inclusive,

Defendants.

Case No.: 2:15-CV-00871 APG-CWH

**DECLARATION IN SUPPORT OF  
STAY**

Christian Gabroy, Esq, in support of such Joint Stipulation and Order for  
Temporary Stay of Proceeding states as follows per 28 U.S.C. §1746

1. As counsel for Plaintiff, Plaintiff has requested such right to sue from the EEOC on May 26, 2015 and again on May 27, 2015. Plaintiff's counsel's office has informed him that they faxed the request on May 26, 2015 and on May 27, 2015.
2. Plaintiff's counsel has also telephoned the EEOC and requested the right to sue.
3. Plaintiff's counsel believes that such right to sue will be sent to Plaintiff's counsel within 30 days.

1 4. Immediately upon such receipt of the right to sue, Plaintiff will move to amend  
2 the Complaint to assert such Title VII/retaliation claims. Defendant has  
3 represented that they will not oppose such Amendment and will stipulate to the  
4 filing of the Amended Complaint.

5 5. The purpose of the stay is not for delay but is for the expediency of the claims  
6 asserted, for utilizing and saving judicial resources and the parties' resources.  
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8 Dated this \_\_27th\_\_ day of May 2015.

9 Respectfully submitted,

10 GABROY LAW OFFICES

11 By \_\_\_\_\_/s/\_\_\_\_\_  
12 CHRISTIAN GABROY, ESQ.  
13 IVY HENSEL, ESQ.  
14 The District at Green Valley Ranch  
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